

## **APPENDICES**

### **HALESOWEN AREA COMMITTEE**

**17<sup>th</sup> NOVEMBER 2004**

### **REQUEST TO: EXTINGUISH OR DIVERT ACCESS RIGHTS**

**LOCATION: 26 HILLTOP AVENUE, HALESOWEN**  
**(As shown outlined in black on the plan attached)**

### **BACKGROUND**

An application has been received from the owner 26 Hilltop Avenue, Halesowen, a former Council house purchased under the right to buy in 1990 by a previous owner. It is the end property in a row of four.

The applicant wishes to extend the property to provide an extra bedroom for his children and has requested that a pedestrian right of way retained over the property that gives pedestrian access to the rear of 25 Hilltop Avenue, be either extinguished or diverted to allow the extension to be built.

25 Hilltop Avenue is a Council owned property that is let to a tenant. The property is the second in a row of 4 properties that are terraced and the right of way gives pedestrian access along the side and across the rear garden of number 26, to the rear of no 25 Hilltop Avenue. Rear access to no 24 Hilltop Avenue is gained across the garden of no 23 Hilltop Avenue.

## **COMMENTS**

**The relevant Council Directorates have been consulted regarding the application and objections to the extinguishment of the right of way have been received from the Directorate of Housing, the Directorate of Law and Property and the Directorate of the Urban Environment.**

**The extinguishment of the right of way would prevent the tenant of 25 gaining access to the rear of the property, the only remaining means of access being through the house. It would also set a precedent for similar future applications.**

**It is suggested however, that consideration could be given to diverting the right of way to a location within the grounds of 26 Hilltop Avenue, so that a pedestrian route of access to 25 Hilltop Avenue could be retained, subject to the agreement of both the tenant of 25 Hilltop Avenue and the owner of 26 Hilltop Avenue.**

**The Legal Division of the Directorate of Law and Property recommend that should the Council agree to the diverting of the right of way, a deed of variation should be entered into which would provide for an alternative access route to no 25 Hillside Avenue.**

**In addition, there is also a covenant within the transfer of 26 Hilltop ave, that requires the owner of the property to gain the Council's consent in writing to any alterations or amendments to the property and any plans to carry out alterations should be submitted to the Conveyancing section for approval by the Director of Housing before being agreed by way of delegated authority. A fee of £30 is chargeable for such consent and this is separate and in addition to any planning consent or building regulations required.**

## **PROPOSAL**

**That the Area Committee advise the Lead Member for Housing to refuse the application to extinguish the right of way to 25 Hilltop Avenue but to approve in principle, the variation of the right of way to a new position, subject to this being acceptable to the tenant of 25 Hilltop Avenue, the Director of Housing and the applicant, and for a deed of variation to be entered into on terms and conditions to be negotiated and agreed by the Director of Law and Property.**

## **BACKGROUND PAPERS**

**Correspondence with applicant  
Emails and Memos from Council Directorates**

**Contact Officer: Gill Hudson, Property Manager Ext 5311**